UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/129
27 March 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report of the Secretary-General on the situation of human rights in Myanmar, submitted pursuant to General Assembly resolution 51/117

1. The present report is submitted pursuant to paragraph 17 of General Assembly resolution 51/117 of 12 December 1996, entitled "Situation of human rights in Myanmar", in which the Assembly requested me to continue my discussions with the Government of Myanmar in order to assist in the implementation of that resolution and in its efforts for national reconciliation and to report to the Assembly at its fifty-second session and to the Commission on Human Rights at its fifty-third session.

2. As I have indicated in previous reports, I view the role entrusted to me by the General Assembly to be one of good offices, as distinct from the fact-finding mandate assigned by the Commission on Human Rights to the Special Rapporteur on the situation of human rights in Myanmar.

3. The Commission will be aware from my report to the General Assembly (A/51/660) that three rounds of talks were held in New York and Bangkok with the Minister for Foreign Affairs of Myanmar, U Ohn Gyaw, between April and October 1996. The results of these talks were conveyed to the Assembly at its fifty-first session in the above-mentioned report.

4. Following the adoption of resolution 51/117 by the General Assembly on 12 December 1996, the Permanent Representative of Myanmar to the United Nations was asked in January 1997 to convey to his Government a proposal that the Director of the East Asia and the Pacific Division of the Department of Political Affairs undertake a visit to Myanmar as part of the

Department's routine consultations with the countries in the region, and to lay the groundwork for a new round of talks in Yangon between the Myanmar authorities and the Secretary-General's Envoy prior to the submission of my report to the Commission at its fifty-third session.

5. The Government of Myanmar agreed to the visit by the Director of the East Asia and the Pacific Division, Mr. Francesc Vendrell, which took place from 17 to 21 February 1997. During his visit, Mr. Vendrell held consultations with the Minister for Foreign Affairs, U Ohn Gyaw, the Minister for Progress of Border Areas and National Races and Development Affairs, Lieutenant-General Maung Thint, the Minister for Cooperatives and General-Secretary of the Union Solidarity and Development Association (USDA), U Than Aung, the Chief Justice, U Aung Toe, the Attorney-General, U Tha Tun, senior members of the Office of Strategic Studies and Directorate of Defence Services Intelligence at the Ministry of Defence, and officials of the Ministry of Foreign Affairs. Mr. Vendrell also held consultations with leaders of political parties, namely, the National League for Democracy (NLD), including its General-Secretary Daw Aung San Suu Kyi, the National Unity Party (NUP) and the Shan Nationalities League for Democracy (SNLD).

6. In his meetings with the Minister for Foreign Affairs and other senior officials of the Ministry of Foreign Affairs, Mr. Vendrell proposed that a visit by the Assistant Secretary-General for Political Affairs, Mr. Alvaro de Soto, take place in March. As my Envoy, Mr. de Soto would hold talks at the appropriate level, thereby enabling me to submit a more comprehensive report to the Commission in time for its fifty-third session. Various modalities were suggested by Mr. Vendrell for the consideration of the Government of Myanmar so that future visits by my Envoy to Myanmar could become more regular and less contentious than in the past. The Ministry of Foreign Affairs took note of the proposals without giving an immediate response concerning the proposed date for my Envoy's visit.

7. Mr. Vendrell's proposal was followed up in New York with the Permanent Mission of Myanmar to the United Nations by the Assistant Secretary-General for Political Affairs. The Government of Myanmar responded that senior government officials were tied up until the end of April, and would only be able to welcome my Envoy after that. It has thus not been possible for my Envoy to visit Myanmar prior to my submission of this report.

8. While the February 1997 visit to Myanmar was part of routine consultations with countries in the region and was therefore not at the level that would be appropriate for a good offices mission by my Envoy, I wish to convey some of the salient points of Mr. Vendrell's discussions with his interlocutors in Myanmar, insofar as they relate to the issues raised in General Assembly resolution 51/117.

9. Regarding the National Convention, which has not met since March 1996, the authorities explained that after reaching a consensus on the Constitution's 104 fundamental principles and three chapters on the "State", "State Structure" and "Head of State", it is next due to consider power-sharing between the central Government and the states, regions and self-administered areas in the context of the chapters on the legislature, executive and judiciary. They also stated that preliminary discussions were being held on

that important matter amongst the various Ministries and between the Government and the national races. It was argued that the Constitutions of 1948 and 1974 had failed because they had not adequately addressed the aspirations of the national races, and that it was important to ensure that the future Constitution reflected their aspirations. No time-frame was given as to when the National Convention would reconvene. According to the Chief Justice, who is also the Chairman of the National Convention Convening Working Committee, once the issue of power-sharing had been resolved it should be possible to move faster with the drafting of the remaining chapters, namely, on the formation of political parties, the Tatmadaw (Myanmar Armed Forces), citizens' rights and responsibilities, elections, emergency provisions, amendments to the Constitution, the national emblem and capital, transitional provisions, general provisions, and the division of powers between the legislative, executive and judiciary branches. On the other hand, some representatives of political parties and national races indicated that they were not aware that discussions between the Government and the ethnic groups were taking place.

10. It was repeatedly emphasized by government officials that the priority for Myanmar was the resolution of the various insurgencies that had plagued Myanmar since its independence. They pointed out that for the first time in its history the guns were silent in most of Myanmar owing to the cease-fire agreements reached between the armed ethnic groups and the Government. They further stressed that only after there were no more threats to the stability of the country could discussions on multi-party democracy be held and that only a "disciplined" body like the Tatmadaw was in a position to ensure that the armed groups gave up their weapons once the drafting of the Constitution had been completed. In the view of representatives of some political parties and national races, the end of the insurgencies was unlikely to come about unless the National Convention was fully representative and a genuine dialogue was established between the Government, the political parties and the ethnic groups.

11. Regarding the recent military operations against the Karen National Union (KNU), the Government indicated that it had held four meetings in 1996 with representatives of the KNU, which the Government considered to be the last remaining armed ethnic group which had not "entered the legal fold". According to the Government, no agreement had been reached with the KNU because the KNU leadership could not accept the same conditions which had been agreed by the other armed ethnic groups and the Government could not treat the KNU differently from the other groups by agreeing to a separate set of demands, including a political dialogue, which could only take place within the National Convention. In view of the failure of the negotiations, the Government had decided to send troops to the border areas to clear out the KNU camps and reassert government control over the entire national territory.

12. According to the Government, little significance should be attached to the Mae Tha Raw Hta meeting of ethnic groups held in January on the Myanmar-Thai border, which was reportedly attended by representatives of several national races and which, inter alia, called for the dissolution of the "sham" National Convention and a tripartite dialogue between the State Law and Order Restoration Council, Daw Aung San Suu Kyi and "pro-democracy forces", and leaders of the ethnic nationalities. The authorities explained

that most of the ethnic groups that were "in the legal fold" had not attended the meeting, and those that had done so had informed the Government subsequently that they had not signed the declaration issued at the conclusion of the meeting.

13. In reply to questions posed by Mr. Vendrell on the prospects for a dialogue with Daw Aung San Suu Kyi and the NLD, which had won an absolute majority of votes in the 1990 elections, the Government reiterated that the only forum for political discussions was the National Convention, from which the NLD had chosen to withdraw in November 1995 (and from which it had subsequently been expelled), that the 1990 elections had not been held for the purpose of an immediate transfer of power since the 1974 Constitution had become irrelevant, that a new Constitution was required before a transfer of power, and that over six years had elapsed since the holding of those elections. The NLD representatives, on the other hand, after expressing grave concern about what they considered to be continuing arrests of the party's members, pointed out that the NLD decision to participate in the National Convention for almost three years was not meant to reflect their concurrence with the Convention's composition or functioning; and that they had decided to withdraw when it became apparent that their proposals had no impact on the Convention's proceedings or results despite the fact that the Convention was supposed to work on the basis of consensus. They indicated their readiness to open a dialogue with the Government without preconditions and to discuss ways of making the National Convention representative. The authorities, however, stated that there were no mechanisms to amend the composition and functioning of the National Convention and that they saw little point in opening a dialogue, however informal, on that or other matters with Daw Aung San Suu Kyi and the NLD.

14. On the prospects for a visit to Myanmar by the Special Rapporteur on the situation of human rights in Myanmar, Mr. Rajsoomer Lallah, before the current session of the Commission, the authorities, while not excluding cooperating with the Special Rapporteur, stated that it was not an opportune time for his visit which, they suggested, would take place at "an appropriate time".

15. The Government reaffirmed its desire to have meaningful contacts with the United Nations and particularly to continue the dialogue with me and with my representatives.

16. I welcome the recent visit to Myanmar by a member of the Secretariat and the fact that he was able to conduct discussions with the Government and with representatives of political parties; and I note the Government's desire to continue a dialogue with me on issues of concern to the international community, as expressed in successive General Assembly and Commission resolutions. On the other hand, it is my strong hope that my Envoy, who has not been able to visit Myanmar for over a year and a half, will be able to do so in the very near future. Such visits are essential if I am to carry out the wishes of the membership. I must also express my disappointment that I cannot report progress about the areas on which the General Assembly and the Commission have repeatedly expressed concern.